

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

AMERICAN FRIENDS SERVICE COMMITTEE;
CENTER FOR

CONSTITUTIONAL RIGHTS;

HUMAN RIGHTS WATCH; and OPEN
SOCIETY INSTITUTE,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as
President of the United States;

UNITED STATES DEPARTMENT OF STATE;

MARCO A. RUBIO, in his official capacity as
Secretary of State;

UNITED STATES DEPARTMENT OF THE
TREASURY;

SCOTT K. H. BESSENT, in his official capacity
as Secretary of the Treasury;

UNITED STATES DEPARTMENT OF
JUSTICE;

TODD BLANCHE, in his official capacity as
United States Attorney General;

OFFICE OF FOREIGN ASSETS CONTROL;
and

BRADLEY T. SMITH, in his official capacity as
Director, Office of Foreign Assets Control,

Defendants.

Civil Action No. 26-cv-6830

[PROPOSED] BRIEF OF PHYSICIANS FOR HUMAN RIGHTS AS *AMICUS CURIAE*
IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

September 23, 2026

Gerson H. Smoger
SMOGER AND ASSOCIATES

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Pro hac vice* application forthcoming

Kimberly Saltz
Physicians for Human Rights
520 8th Avenue Suite 2301
New York, NY 10018
(646) 564-3720

[REDACTED]

**Pro hac vice* application forthcoming

Payal K. Shah (4540902)
Physicians for Human Rights
520 8th Avenue Suite 2301
New York, NY 10018
(646) 564-3720

[REDACTED]

Counsel of Record for Amicus Curiae
Physicians for Human Rights

TABLE OF CONTENTS

I. INTEREST OF AMICUS CURIAE PHYSICIANS FOR HUMAN RIGHTS1

II. INTRODUCTION AND SUMMARY OF ARGUMENT3

III. ARGUMENT5

 A. THE SANCTIONS BLOCK VICTIMS AND SURVIVORS OF ATROCITY CRIMES
 FROM JUDICIAL PROCESSES CRITICAL FOR THEIR HEALING AND CARE.5

 1. **Victims and survivors of conflict-related sexual violence in the Democratic
 Republic of the Congo**6

 2. **Rohingya victims and survivors of violence, destruction, sexual violence, forced
 pregnancy, and mass forcible expulsion in Myanmar** 10

 3. **Victims and survivors of attacks on civilians and civilian infrastructure in
 Ukraine**..... 15

 4. **Victims and survivors of attacks on health care and restrictions on humanitarian
 aid in Gaza** 19

 B. THE NECESSITY OF JUSTICE AND ACCOUNTABILITY FOR VICTIMS AND
 SURVIVORS23

IV. CONCLUSION.....26

TABLE OF AUTHORITIES

Cases

<i>American Friends Service Committee v. Trump</i> , Motion for Preliminary Injunction, No. 26-cv-6830- JMF (S.D.N.Y. Sept 1, 2026).....	3
<i>Smith v. Trump</i> , No. 1:25-cv-00158, 2025 WL 2021785 (D. Me. July 18, 2025)	18

International Cases

<i>Prosecutor v. Katanga</i> , ICC-01/04-01/07-3934-AnxC, Annex C to the Final Report Pursuant to Regulation 58 of the Regulations of the Trust Fund for Victims: Jean-Benoît Falisse, Simeon Koroma, Georges Bilauri Nyembo & Dieumerici Amuda Baba, <i>Evaluation of the Effects of the Reparations Ordered by the International Criminal Court and Implemented by the Trust Fund for Victims in the Case of the Prosecutor Against Germain Katanga</i> (Univ. of Edinburgh, external evaluation comm'd by the Trust Fund for Victims) (Dec. 2, 2024), https://www.icc-cpi.int/court-record/icc-01/04-01/07-3934	31
--	----

Other Authorities

<i>Attacks on Health Care in Ukraine (Interactive Map)</i> , Physicians for Hum. Rts., https://www.attacksonhealthukraine.org/	19, 21, 22
<i>Burma's Path to Genocide: Timeline</i> , U.S. Holocaust Mem'l Museum, https://exhibitions.ushmm.org/burmas-path-to-genocide/timeline	13
<i>Deif</i> , Int'l Crim. Ct., https://www.icc-cpi.int/defendant/deif	26
Derrick Silove, Belinda Liddell, Susan Rees, Tien Chey, Angela Nickerson, Natalino Tam, Anthony B. Zwi, Robert Brooks, Lazaro Lelan Sila & Zachary Steel, <i>Effects of Recurrent Violence on Post-Traumatic Stress Disorder and Severe Distress in Conflict-Affected Timor-Leste: A 6-Year Longitudinal Study</i> , 2 Lancet Glob. Health e293 (2014), https://doi.org/10.1016/S2214-109X(14)70196-2	32
Executive Order No. 14,203, <i>Imposing Sanctions on the International Criminal Court</i> , 90 Fed. Reg. 9369.	2, 3, 4, 5, 6, 7, 12, 18, 27, 29, 33

<i>Democratic Republic of the Congo</i> , Glob. Ctr. for the Resp. to Protect: Populations at Risk (July 16, 2026),	8
<i>Framework of Analysis for Atrocity Crimes</i> , UN Office of the High Commissioner (2014) https://www.ohchr.org/en/documents/tools-and-resources/framework-analysis-atrocity-crimes..3	3
<i>Information for Victims, The Prosecutor v. Bosco Ntaganda</i> , Int'l Crim. Ct., https://www.icc-cpi.int/victims/ntaganda-case.....	12
Information, Int'l Crim. Ct., <i>ICC Welcomes Ukraine as a New State Party</i> (Jan. 2, 2025), https://www.icc-cpi.int/news/icc-welcomes-ukraine-new-state-party.....	20
Interview with Anis Ullah, Thangkali Refugee Camp, Bangladesh (Mar. 12, 2018); <i>Frontline: Myanmar's Killing Fields</i> (PBS television broadcast May 8, 2018), https://www.pbs.org/wgbh/frontline/documentary/myanmars-killing-fields/.	16
Karim A.A. Khan KC, Int'l Crim. Ct. Prosecutor, <i>Statement of ICC Prosecutor Karim A.A. Khan KC: Applications for Arrest Warrants in the Situation in the State of Palestine</i>	26
Laura Mills & Rupa Patel, Physicians for Hum. Rts., <i>Shot While Fleeing: Rohingya Disabled by Myanmar Authorities' Targeted Violence</i> 6 (June 25, 2019), https://phr.org/our-work/resources/shot-while-fleeing-rohingya-disabled-by-myanmar-authorities-targeted-violence/	13, 14
Mohd Sharique Katchhi & Long Chiau Ming, <i>Continuity of Chronic Disease Care in Gaza: A Commentary on Health System Collapse and Humanitarian Imperatives</i> , 15 J. Epidemiology & Glob. Health 1 (2025), https://doi.org/10.1007/s44197-025-00489-5	27
Nate Raymond, <i>US Human Rights Advocates Sue to Block Trump's Sanctions on ICC Prosecutor</i> , Reuters (Apr. 11, 2025), https://www.reuters.com/world/us-human-rights-advocates-sue-block-trumps-sanctions-icc-prosecutor-2025-04-11/	18
Parveen K. Parmar, Jennifer Leigh, Homer Venters & Tamaryn Nelson on behalf of the PHR Rohingya Study Group, <i>Violence and Mortality in the Northern Rakhine State of Myanmar, 2017: Results of a Quantitative Survey of Surviving Community Leaders in Bangladesh</i> , 3 Lancet Planetary Health e144 (2019), https://pubmed.ncbi.nlm.nih.gov/30904113/	15
Paul Nantulya, <i>Beyond M23: Addressing the Underlying Drivers of the DRC Conflict</i> , Afr. Ctr. for Strategic Stud. (July 29, 2026), https://africacenter.org/spotlight/drc-congo-conflict-drivers-beyond-m23/	8

<i>PHR's Mobile App MediCapt Puts Cutting Edge Technology in the Service of Preventing Sexual Violence</i> , Physicians for Hum. Rts., https://phr.org/issues/sexual-violence/medicapt/	10
Physicians for Hum. Rts. & Glob. Hum. Rts. Clinic, Univ. of Chi. L. Sch., “ <i>Destroying Hope for the Future</i> ”: <i>Reproductive Violence in Gaza</i> (Jan. 14, 2026), https://phr.org/our-work/resources/destroying-hope-for-the-future-reproductive-violence-in-gaza/	29
Physicians for Hum. Rts. & Glob. Hum. Rts. Clinic, Univ. of Chi. L. Sch., “ <i>We Could Have Saved So Many More</i> ”: <i>Anguish and Death Caused by Israel's Restrictions on Medical Supplies in Gaza</i> (July 9, 2025), https://phr.org/our-work/resources/we-could-have-saved-so-many-more-anguish-and-death-caused-by-israels-restrictions-on-medical-supplies-in-gaza/ 24,	27, 28
Physicians for Hum. Rts. & Truth Hounds, <i>Health Care in the Dark: The Impacts of Russian Attacks on Energy in Ukraine</i> 4, 20 (Dec. 4, 2024), https://phr.org/our-work/resources/health-care-in-the-dark-attacks-on-energy-in-ukraine/	22
Physicians for Hum. Rts., “ <i>Massive Influx of Cases</i> ”: <i>Health Worker Perspectives on Conflict-Related Sexual Violence in Eastern Democratic Republic of the Congo</i> , at 9 (Oct. 22, 2024), https://phr.org/our-work/resources/massive-influx-of-cases-sexual-violence-drc/	8
Press Release, Int’l Comm’n of Jurists, <i>Palestine/Israel: ICC Arrest Warrants for Israeli and Hamas Leaders a Significant Step in the Pursuit of Justice</i> (Nov. 21, 2024), https://www.icj.org/palestine-israel-icc-arrest-warrants-for-israeli-and-hamas-leaders-a-significant-step-in-the-pursuit-of-justice/	26
Press Release, Int’l Crim. Ct., <i>Situation in Ukraine: ICC Judges Issue Arrest Warrants Against Sergei Ivanovich Kobylash and Viktor Nikolayevich Sokolov</i> (Mar. 5, 2024), https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-sergei-ivanovich-kobylash-and	21
Press Release, Int’l Crim. Ct., <i>Situation in Ukraine: ICC Judges Issue Arrest Warrants Against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova</i> (Mar. 17, 2023) https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and	20
Press Release, Physicians for Hum. Rts., <i>Attacks on Health in Ukraine Continue to Escalate Four Years into Russia's Full-Scale Invasion</i> (Feb. 12, 2026), https://phr.org/news/attacks-on	

health-in-ukraine-continue-to-escalate-four-years-into-russias-full-scale-invasion/..	19, 21, 22, 23
Press Release, <i>Presidency of the assembly of states parties expresses deep regret at the extension of US sanctions targeting the ICC President and a staff member</i> , International Criminal Court (August 19, 2026)	3
Press Release, World Health Org., <i>3000 Attacks on Health Care in Ukraine Verified by WHO Since Full-Scale Invasion</i>	19
Rob McLaughlin, <i>Israel-Hamas 2025 Symposium – Conditionality and the ICC’s Gallant “Starvation as a Method of Warfare” Charge</i> , Lieber Inst. W. Point (Mar. 21, 2015), https://lieber.westpoint.edu/conditionality-iccs-gallant-starvation-method-warfare-charge/ ..	25
<i>Rohingya Refugee Crisis Explained</i> , UNHCR (Jan. 23, 2026), https://www.unrefugees.org/news/rohingya-refugee-crisis-explained/	13, 14
<i>Situation in the Democratic Republic of the Congo</i> , Int’l Crim. Ct., https://www.icc-cpi.int/drc 9, 12	
<i>Situation in the People’s Republic of Bangladesh/Republic of the Union of Myanmar</i> , Int’l Crim. Ct., https://www.icc-cpi.int/bangladesh-myanmar	14, 15
<i>Situation in the State of Palestine</i> , Int’l Crim. Ct., https://www.icc-cpi.int/palestine (last visited July 20, 2026)	25, 26
<i>Situation in Ukraine</i> , Int’l Crim. Ct., https://www.icc-cpi.int/situations/ukraine	18, 21
SM Asik Ullah, <i>Societal Impacts of the Rohingya Refugee Presence in Bangladesh’s Border Communities: Tensions and Transformations</i> , Societal Impacts, June 2026, https://www.sciencedirect.com/science/article/pii/S2949697726000044	14
SOFEPADI, https://www.sofepadirdc.org/	12
Stephen Cody, Eric Stover, Mychelle Balthazard & Alexa Koenig, <i>The Victims’ Court? A Study of 622 Victim Participants at the International Criminal Court</i> (Univ. of Cal., Berkeley Sch. of L., 2015), https://ssrn.com/abstract=2982534	32
Tamaryn Nelson & Rohini Haar, Physicians for Hum. Rts., <i>“Please Tell the World What They Have Done to Us”: The Chut Pyin Massacre: Forensic Evidence of Violence Against the Rohingya in Myanmar</i> (July 19, 2018), https://phr.org/our-work/resources/please-tell-the-world-what-they-have-done-to-us/	16, 17

<i>The Africa File provides regular analysis and assessments of major developments regarding state and nonstate actors' activities in Africa that undermine regional stability and threaten US personnel and interests</i> , Critical Threats (September 9, 2025) https://www.criticalthreats.org/briefs/africa-file/afc-m23-organizational-network	9
<i>The Istanbul Protocol</i> , Physicians for Hum. Rts., https://phr.org/issues/torture/setting-anti-torture-norms/istanbul-protocol/	1, 2
<i>Trust Fund for Victims</i> , Trust Fund for Victims, ://www.trustfundforvictims.org/	25
U.N. Off. for the Coordination of Humanitarian Affs., <i>Reported Impact Snapshot: Gaza Strip</i> (June 25, 2025), https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-25-june-2025	26
U.N. Off. for the Coordination of Humanitarian Affs., <i>Reported Impact Snapshot: Gaza Strip</i> (Sep. 17, 2025), https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-17-september-2025	26
U.N. Off. for the Coordination of Humanitarian Affs., <i>Ukraine: Humanitarian Situation Snapshot (March–May 2026)</i> (July 10, 2026),	19
U.N. Secretary-General, <i>Conflict-Related Sexual Violence: Report of the Secretary-General</i> , ¶ 29, U.N. Doc. S/2026/321, (Apr. 21, 2026), https://docs.un.org/en/S/2026/321	10
Ukrainian Women Lawyers Association “JurFem”, <i>General Debate Statement</i> (Dec. 3, 2024), https://coalitionfortheicc.org/sites/default/files/cicc_documents/Ukrainian%20Women%20Lawyers%20Association%20JurFem%20-%20General%20Debate%20Statement%20-%203%20December%202024.pdf	24
<i>Victim Participation</i> , Victims and the ICC, https://icc-victimsrights.org/participation	30
<i>Victims Rights at the ICC</i> , Victims and the ICC, https://icc-victimsrights.org/victim-rights	30
World Health Org., <i>Health System at Breaking Point as Hostilities Further Intensify in Gaza</i> (May 22, 2025), https://www.who.int/news/item/22-05-2025-health-system-at-breaking-point-as-hostilities-further-intensify--who-warns	27
Zakhar Tropin, <i>ECHR Ruling Confirms Russian Invasion of Ukraine Began in 2014</i> , Atl. Council (Feb. 14, 2023), https://www.atlanticcouncil.org/blogs/ukrainealert/echr-ruling-confirms-russian-invasion-of-ukraine-began-in-2014/	18

Treatises

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	
arts. 12-14, Dec. 10, 1984, 1465 U.N.T.S. 85; G.A. Res. 60/147, (Dec. 16, 2005).....	6
International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171;.....	6
Rome Statute of the International Criminal Court , July 17, 1998, 2187 U.N.T.S. 90	9, 14, 20
Rome Statute of the International Criminal Court art. 6, July 17, 1998, 2187 U.N.T.S. 90	5
Rome Statute of the International Criminal Court art. 7, July 17, 1998, 2187 U.N.T.S. 90	5
Rome Statute of the International Criminal Court pmbl., July 17, 1998, 2187 U.N.T.S. 90	4

I. INTEREST OF AMICUS CURIAE PHYSICIANS FOR HUMAN RIGHTS

Physicians for Human Rights (“PHR”) is an international human rights organization with networks of clinicians around the world, including in the U.S., who work to advance human rights and support accountability and justice for victims and survivors of human rights violations. PHR uses its core disciplines—science, medicine, forensics, and public health—to conduct research and medical evaluations, undertake fact-finding investigations, and galvanize thousands of health professionals and allies in the legal sector to end human suffering and secure justice and human rights for all. PHR is a global leader in forensic documentation of human rights abuses, particularly in medical documentation of the harm caused by conflicts and international crimes causing physical and mental health suffering.

PHR has a long history of documenting the kinds of grave atrocities that the International Criminal Court (“ICC”) was established to handle. For instance, PHR played a central role both in the creation of the U.N. Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1999, commonly known as the Istanbul Protocol, and its 2022 update, which are the first internationally accepted standards and procedures on how to recognize and document symptoms of torture such that the documentation may be used as valid evidence of torture in court.¹ PHR has helped countless victims and survivors of grave human rights abuses, including those who have suffered conflict-related sexual violence, torture, and attacks on health, documenting their injuries and experiences to create a record of the

¹ *The Istanbul Protocol*, Physicians for Hum. Rts., <https://phr.org/issues/torture/setting-anti-torture-norms/istanbul-protocol/> (last visited Sep. 17, 2026).

injustices faced by these individuals. Our work has translated into direct relief and care for the harms victims faced as a result of these violations.²

PHR has worked extensively on issues where the ICC and the ICC Office of the Prosecutor have engaged in active investigations, including where cases remain pending. PHR's efforts to document evidence of human rights violations reflect the fact that justice is an essential aspect of healing for the victims of atrocities. PHR has also experienced how the sanctions have impeded its ability to present evidence of such crimes to the ICC, including by hindering the sharing of critical documentation of harm faced by victims and survivors and through creation of a climate of fear that leads to logistical and procedural burdens to ensure compliance with the sanctions at issue.

Therefore, PHR is particularly concerned that the sanctions laid out in Executive Order No. 14,203, *Imposing Sanctions on the International Criminal Court*, 90 Fed. Reg. 9369 ("Executive Order 14,203") that are currently before this Court will undermine the ability of the ICC to function and provide justice and accountability for victims and survivors of atrocity crimes.³ This harm will be particularly acute for victims of atrocity crimes that include sexual violence and attacks on health care, that PHR has worked to document around the world. Even leaving the sanctions in place temporarily while this case is litigated will cause direct, irreparable harm to the victims and survivors of these grave crimes by inhibiting, delaying, and perhaps even eliminating their pathways to justice, reparation, and accountability. As explained by Plaintiffs'

² See, e.g., *Justice for the Children of Kavumu*, Physicians for Hum. Rts., <https://phr.org/impact/a-victory-for-justice-in-the-congo/> (last visited Sep. 22, 2026).

³ Executive Order No. 14,203, *Imposing Sanctions on the International Criminal Court*, 90 Fed. Reg. 9369.; Atrocity Crimes refers to the following international crimes: genocide, war crimes, and crimes against humanity. See, *Framework of Analysis for Atrocity Crimes*, UN Office of the High Commissioner (2014) <https://www.ohchr.org/en/documents/tools-and-resources/framework-analysis-atrocity-crimes>.

counsel, the Executive Order attacks the rule of law and the ability of ICC judges and prosecutors to carry out their directives.⁴ In doing so, the Executive Order threatens access to justice for victims of genocide, crimes against humanity, and war crimes. The Executive Order further undermines the ICC by targeting civil society organizations, including Plaintiffs, who support or participate in legal proceedings at the ICC. As the Assembly of States Parties noted, the sanctions “risk[] undermining ongoing investigations and impeding global efforts aimed at ensuring accountability.”⁵

Given this risk, PHR hopes that its experience and understanding of the issues before this Court will inform the Court of how the Executive Order can undermine the ICC and as a result may cause irreparable harm to victims of atrocities, particularly given the fact that presently the ICC represents one of the few narrow pathways left to justice and healing from the trauma that these victims have been forced to endure.

II. INTRODUCTION AND SUMMARY OF ARGUMENT

The court should grant the Plaintiffs’ preliminary injunction because the sanctions in Executive Order 14,203 cause irreparable harm to the ICC’s ability to provide justice and accountability for survivors and victims of atrocity crimes. Additionally, the Court should grant the preliminary injunction because it serves the public interest to maintain the functionality of an international criminal tribunal and offers victims a pathway to justice and healing from their trauma.

⁴ See, *American Friends Service Committee v. Trump*, Motion for Preliminary Injunction, No. 26-cv-6830- JMF (S.D.N.Y. Sept 1, 2026).

⁵ Press Release, *Presidency of the assembly of states parties expresses deep regret at the extension of US sanctions targeting the ICC President and a staff member*, International Criminal Court (August 19, 2026) <https://asp.icc-cpi.int/press-releases/PR-20260819>.

The Rome Statute establishing the ICC recognizes that “millions of children, women and men have been victims of unimaginable atrocities” and that “the most serious crimes of concern to the international community as a whole must not go unpunished.”⁶ Therefore, in its formation, the ICC was created to hold individuals accountable for “the most serious crimes of concern to the international community as a whole, namely the crime of genocide, war crimes, crimes against humanity, and... the crime of aggression.”⁷ The ICC functions as a “court of last resort”, prosecuting only when the state or states with jurisdiction over the matter are unwilling or unable genuinely to carry out the investigation or prosecution. For many victims who find themselves before the ICC, this often means that the court is the last or only realistic chance for justice or reparation.⁸

The sanctions articulated in Executive Order 14,023 interfere with the functions of the entire ICC as an institution and undermine the judicial process for rights-holders around the world who look to the ICC as a last hope when no other avenue remains. What is lost is that, from the

⁶ Rome Statute of the International Criminal Court pmb., July 17, 1998, 2187 U.N.T.S. 90.

⁷ The Rome Statute defines genocide as “any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; or forcibly transferring children of the group to another group.” Rome Statute of the International Criminal Court art. 6, July 17, 1998, 2187 U.N.T.S. 90. The Rome Statute defines “crimes against humanity” to include the “any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: murder; extermination; enslavement; deportation or forcible transfer of population; imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; torture; rape; sexual slavery; enforced prostitution; forced pregnancy; enforced sterilization; or any other form of sexual violence of comparable gravity; persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court; enforced disappearance of persons; the crime of apartheid; or other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.” Rome Statute of the International Criminal Court art. 7, July 17, 1998, 2187 U.N.T.S. 90. Crimes against humanity refer to the enumerated crimes when they are part of widespread or systemic attack directed against any civilian population, with knowledge of the attack.

⁸ The ICC differs from the International Court of Justice in two ways. First, unlike the ICJ which is the judicial organ of the United Nations, the ICC is a permanent fully independent court. Second, whereas the ICJ focuses on settling disputes between states, the ICC focus on holding individuals accountable to victims of their crimes.

moment the ICC opens an investigation into a situation, it can create pathways to healing, security, and care for victims and survivors. Keeping the sanctions in place while U.S. courts adjudicate the matter delays the judicial process, placing justice even further out of reach and prolonging the suffering for civilians who have already faced grave harm.

A key part of ensuring the ICC can do its work is to allow individuals and civil society organizations to work with the ICC to create strong records and support victims. This commitment operates alongside longstanding international law guarantees of an effective remedy and access to justice for victims of serious human rights violations.⁹ These are matters that PHR has long engaged in, demonstrated by the extensive study and documentation PHR has done in the Democratic Republic of the Congo, Ukraine, Bangladesh/Myanmar, and Gaza.

The sanctions put in place by the Executive Order will most likely operate to substantially prevent civil society organizations from working with the ICC to develop strong cases, ensure justice, and, most importantly, benefit the dire needs of victims. Moreover, the Executive Order creates a chilling effect that deters organizations that work to support victims and survivors, including PHR, to limit engagement with ICC to share critical evidence to ensure accountability, justice, and prevention of future violations.

III. ARGUMENT

A. THE SANCTIONS BLOCK VICTIMS AND SURVIVORS OF ATROCITY CRIMES FROM JUDICIAL PROCESSES CRITICAL FOR THEIR HEALING AND CARE.

⁹ International Covenant on Civil and Political Rights art. 2(3), Dec. 16, 1966, 999 U.N.T.S. 171; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment arts. 12-14, Dec. 10, 1984, 1465 U.N.T.S. 85; G.A. Res. 60/147, ¶¶ 3, 11 (Dec. 16, 2005).

For decades, PHR has used science and forensic medicine to document evidence of sexual violence, torture, and other atrocity crimes. As a result, PHR has accumulated an extensive fact-based record, particularly in medico-legal documentation, which has helped hold perpetrators accountable for the atrocities they have committed.

Among the many areas that PHR has worked on, PHR has documented abuses in four situations that the ICC is either in the process of investigating or where the ICC has issued warrants to hold perpetrators accountable - Democratic Republic of the Congo, Ukraine, Bangladesh/ Myanmar, and Gaza. Below we will share some of the stories of victims whose access to justice would be significantly and irreparably impacted by leaving the Executive Order in place. PHR aims to provide this Court with direct accounts gathered by PHR and our partners of the victims and survivors whose pathways to justice are impeded by the fear and compliance burdens posed by this Executive Order. These demonstrate why this Court should grant a preliminary injunction blocking sanctions at issue and allow the ICC to proceed with the investigations discussed below.

1. Victims and survivors of conflict-related sexual violence in the Democratic Republic of the Congo

For roughly three decades, armed conflict has persisted in eastern Democratic Republic of the Congo (DRC). The violence has been driven in large part by contests to control gold, coltan (a mineral essential for the manufacture of smartphones) and other strategically important mineral resources in a climate of ethnic tension; longtime regional political rivalry; and repeated intervention from neighboring states. Today, more than 120 armed groups operate in eastern

DRC.¹⁰ Among these, one of the more prominent groups is the March 23 Movement (M23), which originally became active in 2012-2013 and then re-emerged in late 2021 after failed peace talks.¹¹ As of early 2025, M23 had seized Goma, the provincial capital of North Kivu province, and Bukavu, the provincial capital of South Kivu province.¹² Currently, Alliance Fleuve Congo and M23 (AFC/M23) exercise de facto authority over large parts of North Kivu and South Kivu, where they have set up a parallel administration that allows them to collect, among other things, various taxes and fees.¹³

DRC's history with the ICC is important to describe. DRC ratified the Rome Statute in April 2002, after which it referred a situation on its own territory to the ICC in March 2004. These crimes occurred from July 2002 onward. The ICC Office of the Prosecutor (OTP) then opened its first investigation in June 2004. The DRC made a second referral on May 23, 2023, concerning crimes allegedly committed in North Kivu by members of various armed groups and forces since January 1, 2022.¹⁴ On October 14, 2024, the ICC Prosecutor announced renewed investigative efforts, with priority focusing on Rome Statute crimes in North Kivu since January 2022. The ICC Prosecutor determined that the violence since 2022 is interconnected with patterns that have

¹⁰ Physicians for Hum. Rts., “Massive Influx of Cases”: *Health Worker Perspectives on Conflict-Related Sexual Violence in Eastern Democratic Republic of the Congo*, at 9 (Oct. 22, 2024), <https://phr.org/our-work/resources/massive-influx-of-cases-sexual-violence-drc/>; see also *Democratic Republic of the Congo*, Glob. Ctr. for the Resp. to Protect: Populations at Risk (July 16, 2026), <https://www.globalr2p.org/countries/democratic-republic-of-the-congo/>; Paul Nantulya, *Beyond M23: Addressing the Underlying Drivers of the DRC Conflict*, Afr. Ctr. for Strategic Stud. (July 29, 2026), <https://africacenter.org/spotlight/drc-congo-conflict-drivers-beyond-m23/>.

¹¹ Physicians for Hum. Rts., *supra* note 10, at 8.

¹² Hum. Rts. Watch, “Death Was Everywhere”: *Arbitrary Detention, Killings, and Forced Recruitment by the M23*, at 1 (June 10, 2026), <https://www.hrw.org/report/2026/06/10/death-was-everywhere/arbitrary-detention-killings-and-forced-recruitment-by-the>.

¹³ *The Africa File provides regular analysis and assessments of major developments regarding state and nonstate actors' activities in Africa that undermine regional stability and threaten US personnel and interests*, Critical Threats (September 9, 2025) <https://www.criticalthreats.org/briefs/africa-file/afc-m23-organizational-network> (last visited September 23, 2026).

¹⁴ *Situation in the Democratic Republic of the Congo*, Int'l Crim. Ct., <https://www.icc-cpi.int/drc> (last visited July 24, 2026).

plagued the region since at least July 2002 and therefore falls within the remit of the investigation first opened in 2004.

As the conflict has escalated in eastern DRC, widespread conflict-related sexual violence has occurred. The UN Secretary-General's 2026 report on conflict-related sexual violence documented 1,534 verified cases in 2025, which was an 86 percent increase over 2024. Non-state actors are believed to be responsible for 1,229 cases, of which 439 were attributed to M23. State actors are believed to be responsible for 305, most implicating the Congolese armed forces (FARDC).¹⁵

PHR has worked extensively in eastern DRC since 2011, including in partnership with Nobel Peace-Prize laureate Dr. Denis Mukwege and Panzi Hospital. PHR's Program on Sexual Violence in Conflict Zones has trained hundreds of clinicians in forensic documentation. PHR's mobile application MediCapt has allowed clinicians conducting forensic evaluations in sexual violence cases to complete a digital medical certificate, capture forensic photographs, and transmit evidence securely.¹⁶ This has resulted in extensive documentation of the experiences of healthcare workers, victims, and survivors.

In October 2024, PHR released a study based on interviews with health care professionals and humanitarian workers across three conflict-affected health zones in North and South Kivu — Minova, Kirotshe, and Goma.¹⁷ Clinicians reported that rape widely occurred, including multi-perpetrator rape. Clinicians described patients having vaginal and perineal lesions, and even

¹⁵ U.N. Secretary-General, *Conflict-Related Sexual Violence: Report of the Secretary-General*, ¶ 29, U.N. Doc. S/2026/321, (Apr. 21, 2026), <https://docs.un.org/en/S/2026/321>.

¹⁶ PHR's Mobile App MediCapt Puts Cutting Edge Technology in the Service of Preventing Sexual Violence, Physicians for Hum. Rts., <https://phr.org/issues/sexual-violence/medicapt/> (last visited July 27, 2026).

¹⁷ Physicians for Hum. Rts., *supra* note 10.

complete perineal tears, produced by penetration with sharp objects. Survivors recounted being held in captivity ranging from five days to a month. Survivors also described being raped at gunpoint with the threat of death.

One healthcare worker noted that survivors “may undergo physical traumas, organ [traumas], destruction...of the genitalia sexually transmitted diseases that endanger their lives, and their future. They can [experience] unwanted pregnancies. And with those unwanted pregnancies, face the risk of becoming disabled...”¹⁸ Clinicians note that most child survivors are girls ages twelve to seventeen, though patients as young as three years old have required treatment for sexual violence. Clinicians documented serious consequences resulting from sexual violence, including syphilis, HIV, genital trauma, developmental delay, and abandonment by families. Surviving child victims have reported being raped in camp tents, in fields alongside their mothers, and in domestic employment. One nurse recounted, “[t]he child had told me that she went to the field in order to look for food. Then, arriving at the field, she ran into two soldiers. Then the soldier told her: I’m going to have sex with you. If you refuse, I will kill you.”¹⁹ Since AFC/M23 assumed de facto authority over the region, the UN has reported on the destruction of law enforcement institutions, fear of reprisals by the perpetrators of the violence, and severe security concerns. This has narrowed the already limited ability to document conflict-related sexual violence.²⁰

With the local justice system unable to function, international tribunals such as the ICC are among the few remaining avenues for victims of this sexual violence to seek justice. Indeed, the ICC is particularly suited to do this, as in this highly contentious area ICC investigation is not

¹⁸ *Id.* at 4.

¹⁹ *Id.*

²⁰ U.N. Secretary-General, *supra* note 15, at ¶ 29.

limited to particular parties or specific groups and it is uniquely able to examine the responsibility of all actors holistically, independently, and impartially – particularly given its already existing scope.²¹ Organizations working with survivors have also reflected that while they continue to advocate for improvements to ensure ICC processes are increasingly survivor-centered, convictions have been followed by critical relief to address the long-term harms experienced by victims and survivors of crimes like sexual violence and conscription, enlistment, and use of children under age fifteen. Female Solidarity for Integrated Peace and Development (SOFEPADI), an organization created in 2000 to address sexual and gender-based violence in the DRC, told PHR that particularly for victims concerned with the Ntaganda case, where a Congolese militia leader was convicted by the ICC of war crimes and crimes against humanity,²² “

[T]he consequences of crimes do not end with convictions. They continue in physical injuries (disability or chronic illnesses) and psychological ones, precariousness, dropping out of school and difficulties in reintegration. These women, men and children need medical and psychosocial support, but also material, socio-economic and educational support, especially for former child soldiers and children born of rape.²³

The sanctions imposed by the Executive Order further constrain avenues for justice for victims of international crimes in eastern DRC today.

2. Rohingya victims and survivors of violence, destruction, sexual violence, forced pregnancy, and mass forcible expulsion in Myanmar

²¹ *Situation in the Democratic Republic of the Congo*, *supra* note 14.

²² *Information for Victims, The Prosecutor v. Bosco Ntaganda*, International Criminal Court, <https://www.icc-cpi.int/victims/ntaganda-case>.

²³ SOFEPADI, <https://www.sofepadirdc.org/> (last visited Sep. 22, 2026).

The Rohingya are a Muslim ethnic minority who have lived for centuries in Rakhine State on the western coast of predominantly Buddhist Myanmar (Burma).²⁴ Following their ascension to power in 1962, Myanmar's military junta began to strip the Rohingya people of citizenship, rendering approximately one million people stateless.²⁵ For decades, the Rohingya have been subject to restrictions on movement, health care, education, and political participation, along with forced displacement, arbitrary detention, forced labor, and trafficking.²⁶ In 2017, the Myanmar military conducted "clearance" operations across hundreds of villages in northern Rakhine State, killing thousands.²⁷ As a result, approximately 740,000 Rohingya were forced to flee across the border into Bangladesh.²⁸

Myanmar itself is not a State Party to the Rome Statute. But Bangladesh, the state to which the Rohingya have been forcibly expelled by the Myanmar government, is a party to the Rome Statute and has been adversely impacted by the forced migration to its territory.²⁹ As such, on November 14, 2019, Pre-Trial Chamber III authorized an investigation into crimes committed at least in part on the territory of Bangladesh or another State Party, covering the 2016 and 2017 waves of violence in Rakhine State and crimes committed on or after June 1, 2010.³⁰ On

²⁴ See Laura Mills & Rupa Patel, Physicians for Hum. Rts., *Shot While Fleeing: Rohingya Disabled by Myanmar Authorities' Targeted Violence* 6 (June 25, 2019), <https://phr.org/our-work/resources/shot-while-fleeing-rohingya-disabled-by-myanmar-authorities-targeted-violence/>; see also *Rohingya Refugee Crisis Explained*, UNHCR (Jan. 23, 2026), <https://www.unrefugees.org/news/rohingya-refugee-crisis-explained/>.

²⁵ Mills & Patel, Physicians for Hum. Rts., *supra* note 24, at 6; *Rohingya Refugee Crisis Explained*, *supra* note 24.

²⁶ Mills & Patel, Physicians for Hum. Rts., *supra* note 24, at 6; *Rohingya Refugee Crisis Explained*, *supra* note 24; see also *Burma's Path to Genocide: Timeline*, U.S. Holocaust Mem'l Museum, <https://exhibitions.ushmm.org/burmas-path-to-genocide/timeline> (last visited Sep. 22, 2026).

²⁷ Mills & Patel, Physicians for Hum. Rts., *supra* note 24, at 3; *Rohingya Refugee Crisis Explained*, *supra* note 24.

²⁸ Mills & Patel, Physicians for Hum. Rts., *supra* note 24, at 6; *Rohingya Refugee Crisis Explained*, *supra* note 24.

²⁹ SM Asik Ullah, *Societal Impacts of the Rohingya Refugee Presence in Bangladesh's Border Communities: Tensions and Transformations*, Societal Impacts, June 2026, at 1, 2, <https://www.sciencedirect.com/science/article/pii/S2949697726000044> (documenting growing tension among host communities due to forest degradation, wage competition, rising living costs, and heightened insecurity).

³⁰ *Situation in the People's Republic of Bangladesh/Republic of the Union of Myanmar*, Int'l Crim. Ct., <https://www.icc-cpi.int/bangladesh-myanmar> (last visited July 23, 2026).

November 27, 2024, the OTP filed an application for a warrant for Senior General and Acting President Min Aung Hlaing, Commander-in-Chief of the Myanmar Defense Services, for the crimes against humanity of deportation and persecution of the Rohingya, which were committed in Myanmar and notably in part of Bangladesh between August 25 and December 31, 2017. The Prosecutor stated it was the first such application against a high-level Myanmar official and that further applications would follow.³¹

Military operations in Rakhine state resulted in widespread violence and the displacement of Rohingya civilians into Bangladesh. In a quantitative survey of the 2017 violence, PHR and partners surveyed 604 leaders from 590 Rohingya hamlets, small villages, who were living in camps in Bangladesh. Within this survey, 462 (77%) of 604 hamlet leaders reported that the primary reason they and their community members fled was because of violence in their hamlet or in a neighboring hamlet. Additionally, 568 (94%) respondents reported that they had experienced destruction in their hamlets, including burning or destruction of fields or farms, homes, and mosques; 531 (89%) of 599 respondents reported violence in their hamlets before flight and 373 (64%) of 586 reported violence against civilians in flight.³²

PHR clinicians also conducted forensic medical evaluations of 22 survivors of the August 27, 2017 attack on Chut Pyin village in northern Rakhine State, including on men, women, and children.³³ PHR's clinicians documented injuries, including gunshot wounds, blunt-force trauma,

³¹ *Id.*

³² Parveen K. Parmar, Jennifer Leigh, Homer Venters & Tamaryn Nelson on behalf of the PHR Rohingya Study Group, *Violence and Mortality in the Northern Rakhine State of Myanmar, 2017: Results of a Quantitative Survey of Surviving Community Leaders in Bangladesh*, 3 *Lancet Planetary Health* e144 (2019), <https://pubmed.ncbi.nlm.nih.gov/30904113/>.

³³ Tamaryn Nelson & Rohini Haar, Physicians for Hum. Rts., “Please Tell the World What They Have Done to Us”: *The Chut Pyin Massacre: Forensic Evidence of Violence Against the Rohingya in Myanmar* (July 19, 2018), <https://phr.org/our-work/resources/please-tell-the-world-what-they-have-done-to-us/>.

lacerations, and mutilation.³⁴ An estimated 400 Chut Pyin villagers, including 99 children, were killed or remain missing, among them a group of some 50 men taken away by unknown actors and to date not seen again.³⁵

One twenty-year-old woman, Nur Asha, reported that four Myanmar security forces officers surrounded her house and ordered her to come out.³⁶ After she came out with her four-month-old daughter and two-year old son, they burned her house down. Officers shot at Nur and her son while they fled to the nearby rice fields. A bullet killed her son and then hit Nur's wrist. Nur lay down in the rice field, pretending to be dead, even when the military came and kicked her three times to check if she was indeed dead. She reported seeing her sister-in-law lying nearby with her own baby. When the military tried to wrest the baby away from her, the sister-in-law refused. The military officers killed her, and when the baby fell from her hands, they shot her baby as well. Nur reported lying among scores of bodies in the rice fields before she was able to retreat to the next village and walk eleven days to reach Bangladesh where she underwent surgery on her wrist. PHR's medical evaluation found Nur's clinical exam to be "highly consistent with her report of a surgically treated low velocity gunshot wound, such as one that would have been caused by a bullet travelling through her son before striking her."³⁷

Another woman, Kismath Fatima, reported that on the day of the Chut Pyin attack, she was taken from her home to a school where the military held dozens of women, many of whom reported being raped.³⁸ Kismath told PHR that "she was raped numerous times but did not know

³⁴ *Id.* at 15.

³⁵ Interview with Anis Ullah, Thangkali Refugee Camp, Bangladesh (Mar. 12, 2018); *Frontline: Myanmar's Killing Fields* (PBS television broadcast May 8, 2018), <https://www.pbs.org/wgbh/frontline/documentary/myanmars-killing-fields/>.

³⁶ Nelson & Haar, Physicians for Hum. Rts., *supra* note 33, at 41.

³⁷ *Id.*

³⁸ *Id.* at 19.

the exact number of men who assaulted her because she was blindfolded. Her attackers repeatedly groped her body and, whenever she tried to move away, they slapped and kicked her face. They also beat her in the head, face, shoulders, and torso with a gun. One man stabbed her right forearm with a knife attached to the end of a gun.”³⁹ She estimates that she was held for four hours, and after she was let go, she ran into the forest naked, despite being barely able to run or walk due to pain until she got to a nearby village. After seeing a doctor in this village, Kismath walked five days to Bangladesh. She described having bleeding and bruising in the hours and days after the gang rape. Months later, she still reported persistent dull abdominal pain, nightmares, and irregular menstrual cycle. PHR’s medical evaluation findings noted that “abdominal physical exam findings are consistent with having prior pelvic trauma, which is consistent with being raped multiple times for multiple hours, as she described.”⁴⁰

Since the perpetrators of the violence is the Myanmar government itself, there is currently no domestic justice mechanism for these survivors. The Rohingya are still displaced in Bangladesh with no prospect of returning to their homes, further challenging their access to justice. The ICC represents one of the only pathways to hold the perpetrators of this violence accountable. In a previous case concerning these sanctions, it is noted that one plaintiff had previously provided the Office of the Prosecutor with evidence of atrocities against the Rohingya and stated that Executive Order 14,203 forced him to cease that work.⁴¹ There can be little question that the current sanctions on the ICC impact this essential work and make it almost impossible to bring the perpetrator to justice.

³⁹ *Id.*

⁴⁰ *Id.* at 57.

⁴¹ Nate Raymond, *US Human Rights Advocates Sue to Block Trump’s Sanctions on ICC Prosecutor*, Reuters (Apr. 11, 2025), <https://www.reuters.com/world/us-human-rights-advocates-sue-block-trumps-sanctions-icc-prosecutor-2025-04-11/>; see *Smith v. Trump*, No. 1:25-cv-00158, 2025 WL 2021785 (D. Me. July 18, 2025).

3. Victims and survivors of attacks on civilians and civilian infrastructure in Ukraine

In 2014, Russia annexed a portion of Ukraine and substantially increased its backing of armed separatist groups in the eastern regions of Ukraine.⁴² On February 24, 2022, Russia launched a full-scale invasion of Ukraine.⁴³ Russian forces have attacked civilian infrastructure and significantly disrupted the delivery of healthcare in much of Ukraine. The World Health Organization (WHO) has verified that as of May 2026 more than 3,000 attacks have occurred on health care since the full-scale invasion began. These findings are largely congruent with the independent documentation by PHR.⁴⁴ Roughly 80 percent of these attacks have affected outpatient clinics, hospitals, and other necessary public care settings, a staggering figure.⁴⁵ In fact, attacks on health care in Ukraine in 2026 have accounted for roughly one third of all attacks on health care verified worldwide: 249 of nearly 690 global incidents from January to May 2026.⁴⁶ Attacks on maternity hospitals have forced women to give birth under progressively more dangerous conditions, contributing to a 37 percent rise in maternal mortality in 2025.⁴⁷

⁴² Zakhar Tropin, *ECHR Ruling Confirms Russian Invasion of Ukraine Began in 2014*, Atl. Council (Feb. 14, 2023), <https://www.atlanticcouncil.org/blogs/ukrainealert/echr-ruling-confirms-russian-invasion-of-ukraine-began-in-2014/>.

⁴³ See *Situation in Ukraine*, Int'l Crim. Ct., <https://www.icc-cpi.int/situations/ukraine> (last visited July 25, 2026); *Attacks on Health Care in Ukraine (Interactive Map)*, Physicians for Hum. Rts., <https://www.attacksonhealthukraine.org/> (last visited July 24, 2026).

⁴⁴ See Press Release, World Health Org., *3000 Attacks on Health Care in Ukraine Verified by WHO Since Full-Scale Invasion* (May 8, 2026), <https://www.who.int/europe/news/item/08-05-2026-3000-attacks-on-health-care-in-ukraine-verified-by-who-since-full-scale-invasion>.

⁴⁵ *Id.*

⁴⁶ See U.N. Off. for the Coordination of Humanitarian Affs., *Ukraine: Humanitarian Situation Snapshot (March–May 2026)* (July 10, 2026), <https://www.unocha.org/publications/report/ukraine/ukraine-humanitarian-situation-snapshot-march-may-2026-enuk>.

⁴⁷ Press Release, Physicians for Hum. Rts., *Attacks on Health in Ukraine Continue to Escalate Four Years into Russia's Full-Scale Invasion* (Feb. 12, 2026), <https://phr.org/news/attacks-on-health-in-ukraine-continue-to-escalate-four-years-into-russias-full-scale-invasion/>.

Ukraine became a party to the Rome Statute on January 1, 2025.⁴⁸ Prior to that, Ukraine had twice accepted the ICC's jurisdiction under article 12(3). Its second declaration extended the ICC's jurisdiction on an open-ended basis to alleged Rome Statute crimes committed anywhere on Ukrainian territory from February 20, 2014 onward. Following Russia's full-scale invasion, forty-three state parties referred the situation to the ICC between March and April 2022. On March 2, 2022, on the basis of the referrals it received, the ICC Prosecutor opened an investigation. On March 17, 2023, the ICC issued warrants for the arrest of Russian President Vladimir Putin and Maria Lvova-Belova, Commissioner of Children's Rights in the Office of the President of the Russian Federation, for the war crimes of unlawful deportation and unlawful transfer of children from the occupied areas of Ukraine to the Russian Federation.⁴⁹

Following a campaign of widescale attacks on Ukraine's energy system, the Chamber issued warrants for Lt. Gen. Sergei Kobylash, then Commander of Long-Range Aviation, and Adm. Viktor Sokolov, then Commander of the Black Sea Fleet on March 5, 2024. On June 24, 2024, the Chamber issued warrants for Sergei Shoigu, then Minister of Defense, and Valery Gerasimov, Chief of the General Staff. All four are charged with the war crime of directing attacks at civilian objects, the war crime of causing excessive incidental harm to civilians or civilian objects, and the crime against humanity of other inhumane acts (art. 7(1)(k)), for missile strikes on Ukraine's electric infrastructure from at least October 10, 2022 until at least March 9, 2023.⁵⁰

⁴⁸ Information, Int'l Crim. Ct., *ICC Welcomes Ukraine as a New State Party* (Jan. 2, 2025), <https://www.icc-cpi.int/news/icc-welcomes-ukraine-new-state-party>.

⁴⁹ Press Release, Int'l Crim. Ct., *Situation in Ukraine: ICC Judges Issue Arrest Warrants Against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova* (Mar. 17, 2023) <https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and>.

⁵⁰ See *Situation in Ukraine*, *supra* note 43; Press Release, Int'l Crim. Ct., *Situation in Ukraine: ICC Judges Issue Arrest Warrants Against Sergei Ivanovich Kobylash and Viktor Nikolayevich Sokolov* (Mar. 5, 2024), <https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-sergei-ivanovich-kobylash-and>.

Since February 2022, PHR has tracked attacks on health care in Ukraine. Alongside partners eyeWitness to Atrocities, Insecurity Insight, the Media Initiative for Human Rights, Truth Hounds, and the Ukrainian Healthcare Center, PHR has assembled a dataset of attacks comprising over 3,300 attacks as of July 2026, including 1,690 attacks which have damaged or destroyed hospitals and clinics and at least 489 health care workers killed and 549 more injured.⁵¹ This documentation has demonstrated that the pace of the attacks on health care is accelerating.⁵² While 2022 reflected the exceptional intensity of the first year of the full-scale invasion, the trend since 2023 shows a sustained year-on-year increase, with an average annual increase of roughly 9%, indicating that attacks have not abated.⁵³

Evidence increasingly shows that attacks on energy infrastructure impact health service delivery and individual health outcomes. In a clinical setting, power cuts can interrupt surgery, oxygen supply, diagnostics, refrigeration creating immediate health risks; they can also disrupt communications, water and sanitation, patient referrals, and transportation weakening hospital functionality. Ninety-two percent of over 2,200 health care workers surveyed by PHR and Truth Hounds reported power outages at their facilities as a result of attacks on energy infrastructure, with two-thirds reporting disruptions of medical procedures such as surgeries, dialysis, and maternity care.⁵⁴ According to a health care worker of a maternity hospital in Zaporizhzhya, “surgeries had to be performed with flashlights in cramped conditions, which meant that instead of a conventional hour, it took about 3 hours to complete the surgery.”⁵⁵ A doctor at Kyiv’s

⁵¹ *Attacks on Health Care in Ukraine (Interactive Map)*, *supra* note 43; *see also* Press Release, Physicians for Hum. Rts., *supra* note 47.

⁵² Press Release, Physicians for Hum. Rts., *supra* note 47.

⁵³ *Attacks on Healthcare in Ukraine (Interactive Map)*, *supra* note 43.

⁵⁴ *See* Physicians for Hum. Rts. & Truth Hounds, *Health Care in the Dark: The Impacts of Russian Attacks on Energy in Ukraine* 4, 20 (Dec. 4, 2024), <https://phr.org/our-work/resources/health-care-in-the-dark-attacks-on-energy-in-ukraine/>.

⁵⁵ Press Release, Physicians for Hum. Rts., *supra* note 47.

Okhmatdyt Children's Hospital, which suffered a deadly missile strike in July 2024 and remained without electricity for the next few days following the attack, said, "[y]ou can work in this mode for a couple of years, but not forever. . . . For me, Okhmatdyt was a fortress. I thought a children's hospital wouldn't get hit."⁵⁶

The harm from attacks on energy infrastructure extended beyond clinical care particularly affecting people dependent on at-home care, people with chronic diseases or disabilities, or those with limited mobility. An at-home dialysis patient described having to organize an entire treatment schedule around power cut schedules: "You connect to the machine in the evening, it works all night, and it cannot be interrupted. . . . When the first outages started at night, the machine began making strange sounds. I was terrified. My dad tried to connect it to some homemade batteries, but they were not enough."⁵⁷ The head of a foundation working with palliative patients, explained: "[a] person who understands that they might die if the lights go out cannot be in a normal state. And a family who knows they are walking on the edge cannot be in a normal state either."⁵⁸

Documenting these harms are important forms of evidence to secure meaningful accountability. It ensures that the consequences of attacks on health and energy infrastructure are recorded as foreseeable harm to civilian populations and that the full scope of such harm is reflected in future legal proceedings and accountability mechanisms. The ICC is particularly important to accountability in Ukraine because, although Ukrainian courts have pursued thousands of war-crimes cases, their ability to prosecute senior Russian officials is constrained by issues including access to suspects, immunities, and the practical limits of exercising domestic jurisdiction over crimes committed as part of a cross-border conflict. For victims and survivors,

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

pursuit of justice before the ICC provides the greatest hope that these grave crimes will not be repeated. As the director of JurFem, an organization providing assistance to survivors of conflict-related sexual violence in Ukraine affirmed, “[j]ustice at the national level is insufficient to ensure satisfaction for victims of conflict-related sexual violence and guarantees of non-recurrence... After all, only justice at the international level for sexual violence crimes, regardless of the armed conflict in which they are committed, can indicate guarantees of non-repetition in the future.”⁵⁹

4. Victims and survivors of attacks on health care and restrictions on humanitarian aid in Gaza

Following the October 7, 2023, attacks by Hamas in Israel—which killed approximately 1,200 people, most of them civilians; injured about 5,500; resulted in the abduction of more than 250 hostages; and involved acts of sexual and gender-based violence—Israel has conducted military operations in Gaza that have struck and destroyed civilian infrastructure, including health care facilities, and imposed restrictions on humanitarian aid for people living in Gaza.⁶⁰ The ICC Chamber found reasonable grounds to believe that both Israeli Prime Minister Netanyahu and former Israeli Defense Minister Gallant intentionally and knowingly deprived the civilian population in Gaza of objects indispensable to their survival, including food, water, medicine and medical supplies, as well as fuel and electricity, from at least October 8, 2023 to May 20, 2024.⁶¹ It found that the resulting lack of food, water, electricity, fuel, and specific medical supplies

⁵⁹ Ukrainian Women Lawyers Association “JurFem”, *General Debate Statement* (Dec. 3, 2024), https://coalitionfortheicc.org/sites/default/files/cicc_documents/Ukrainian%20Women%20Lawyers%20Association%20JurFem%20-%20General%20Debate%20Statement%20-%202023%20December%202024.pdf

⁶⁰ Physicians for Hum. Rts. & Glob. Hum. Rts. Clinic, Univ. of Chi. L. Sch., “*We Could Have Saved So Many More*”: *Anguish and Death Caused by Israel’s Restrictions on Medical Supplies in Gaza* (July 9, 2025), <https://phr.org/our-work/resources/we-could-have-saved-so-many-more-anguish-and-death-caused-by-israels-restrictions-on-medical-supplies-in-gaza/>.

⁶¹ Rob McLaughlin, *Israel-Hamas 2025 Symposium – Conditionality and the ICC’s Gallant “Starvation as a Method of Warfare” Charge*, Lieber Inst. W. Point (Mar. 21, 2015), <https://lieber.westpoint.edu/conditionality-iccs-gallant-starvation-method-warfare-charge/>.

created conditions of life that brought about the destruction of part of the civilian population, resulting in civilian deaths, among them children who died of malnutrition and dehydration.⁶²

The ICC Pretrial Chamber I issued warrants for Prime Minister Benjamin Netanyahu and former Minister of Defense Yoav Gallant for crimes committed beginning October 8, 2023, until at least May 20, 2024, as perpetrators for the war crime of starvation as a method of warfare, and the crimes against humanity of murder, persecution, and other inhumane acts, and as civilian superiors for the war crime of intentionally directing an attack against the civilian population. The ICC Prosecutor also sought arrest warrants for Hamas leaders Mohammed Diab Ibrahim Al-Masri (Deif), Yahya Sinwar, and Ismail Haniyeh for alleged crimes against humanity and war crimes, including murder, torture, hostage-taking, and sexual violence, arising from conduct since October 7, 2023.⁶³ The Court subsequently issued a warrant for Deif, but proceedings against all three were terminated following confirmation of their deaths.⁶⁴

The conflict in Gaza has severely and adversely affected civilians and the healthcare system. As of September 2025, UN figures recorded 65,062 Palestinians died and 165,697 injured in Gaza.⁶⁵ Per the World Health Organization, over 84 percent of hospitals in the Gaza have been

⁶² See *Situation in the State of Palestine*, Int'l Crim. Ct., <https://www.icc-cpi.int/palestine> (last visited July 20, 2026).

⁶³ Karim A.A. Khan KC, Int'l Crim. Ct. Prosecutor, *Statement of ICC Prosecutor Karim A.A. Khan KC: Applications for Arrest Warrants in the Situation in the State of Palestine* (May 20, 2024), <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-kc-applications-arrest-warrants-situation-state> (Diab, Al-Masri, and Haniyeh were charged with crimes against humanity of murder, extermination, torture, and rape and other form of sexual violence, as well as the war crimes of murder, cruel treatment, torture, taking hostages, outrages upon personal dignity, and rape and other forms of sexual violence); see also *Situation in the State of Palestine*, *supra* note 62.

⁶⁴ *Deif*, Int'l Crim. Ct., <https://www.icc-cpi.int/defendant/deif> (last visited Sep. 20, 2026); Press Release, Int'l Comm'n of Jurists, *Palestine/Israel: ICC Arrest Warrants for Israeli and Hamas Leaders a Significant Step in the Pursuit of Justice* (Nov. 21, 2024), <https://www.icj.org/palestine-israel-icc-arrest-warrants-for-israeli-and-hamas-leaders-a-significant-step-in-the-pursuit-of-justice/>.

⁶⁵ U.N. Off. for the Coordination of Humanitarian Affs., *Reported Impact Snapshot: Gaza Strip* (Sep. 17, 2025), <https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-17-september-2025>.

damaged or destroyed,⁶⁶ as a result of 735 attacks on health care between October 7, 2023 and June 11, 2025. During this period, the WHO has concluded that 1,057 health care providers have been killed and 159 medical facilities damaged or destroyed. In Gaza, more than 90 percent of primary health facilities have reported shortages of essential therapeutics, including insulin, antihypertensives, and dialysis supplies.⁶⁷

Prior to the implementation of Executive Order 14,203, PHR partnered with the Global Human Rights Clinic at the University of Chicago Law School and the Section of Trauma and Acute Care Surgery at the University of Chicago to conduct and analyze 47 interviews with health care professionals who traveled to Gaza on medical missions between December 2023 and December 2024.⁶⁸ Healthcare workers reported the follow medical equipment were being restricted from entry into Gaza at Israeli checkpoints: anesthesia; strong painkillers; sanitation materials; scalpels and scalpel handles; insulin; orthopedic tools, including drills, screws, and metal plates; suture materials; dressings and gauze; point-of-care testing; water purification materials; chest tubes; hormone medications for reproductive health; dialysis supplies; batteries; oxygen cylinders; airway and intubation supplies; tourniquets; clamps; skin staplers; and pulse oximeters.

⁶⁶ U.N. Off. for the Coordination of Humanitarian Affs., *Reported Impact Snapshot: Gaza Strip* (June 25, 2025), <https://www.ochaopt.org/content/reported-impact-snapshot-gaza-strip-25-june-2025>; World Health Org., *Health System at Breaking Point as Hostilities Further Intensify in Gaza* (May 22, 2025), <https://www.who.int/news/item/22-05-2025-health-system-at-breaking-point-as-hostilities-further-intensify--who-warns>.

⁶⁷ Mohd Sharique Katchhi & Long Chiau Ming, *Continuity of Chronic Disease Care in Gaza: A Commentary on Health System Collapse and Humanitarian Imperatives*, 15 J. Epidemiology & Glob. Health 1 (2025), <https://doi.org/10.1007/s44197-025-00489-5>.

⁶⁸ Physicians for Hum. Rts. & Glob. Hum. Rts. Clinic, Univ. of Chi. L. Sch., *supra* note 60.

Healthcare workers described how these restrictions on medical supplies could often turn readily manageable healthcare concerns into health emergencies. A physician who worked in Gaza in March 2024 said,

[T]hey were exacerbations of chronic medical conditions. We had one woman who would come in maybe every three or four days in diabetic ketoacidosis because she had type one diabetes and could not get insulin, so we would hospitalize her, release her. She had no way of getting any insulin anymore. So it was just a constant cycle, strokes, heart attacks, infections, sepsis, wound infections.

Restrictions also resulted in severe shortages of medical necessities such as anesthesia. Dr. Mike Mallah, deployed in March 2024, described a seven-year-old girl brought in with half a leg:

We rushed her into the operating room -- despite knowing that the anesthesiologist does not have anesthesia drugs to give her, and he does not have sedation medicines to get her sedated or control her pain. As this little girl screams and writhes on the stretcher, the anesthesiologist just starts singing softly to her, like a lullaby. He knows that's all the comfort he can offer her.⁶⁹

Physicians for Human Rights has also documented the impact of restrictions on resources have had on maternal and neonatal health in the region. Clinicians reported that attacks on infrastructure and restrictions on food and medical supplies resulted in the deaths of infants. As one clinician noted,

I had babies that would've survived if they had proper supplies that we had [in other countries]. A baby that was born in 25 weeks that we essentially kept alive because it was the only surviving family member for the mom, who went into preterm birth after her house was bombed, and all her family members were killed. She survived, and her baby survived via a C-section, but the baby will ultimately die a week after. They don't have the supplies to keep this baby alive... in the context of being in Gaza at that time, they don't have the capability of keeping that baby alive because they didn't have parental nutrition, like customizable parental nutrition. They're triaging their own ventilators, trying to keep a 25-weeker alive in that scenario and sacrificing a ventilator for that baby when you only have a limited supply and have limited supply of breathing tubes. The chances [of] that

⁶⁹ *Id.*

baby surviving in general was very low because they didn't have things like surfactants. They didn't have, again, specialized nutrition.⁷⁰

Another clinician reported the painful realities of adapting to the conflict-induced shortages,

[E]ven before I got there, you could tell they had already triaged this baby and essentially said, okay, this baby is going to pass away. We don't have the resources to keep this baby alive. That decision has already been made. We had already gone down that pathway. We did our best to keep the baby alive as much as possible because the mom still hadn't met her.⁷¹

In complying with the Executive Order, PHR has not shared this research with the ICC, which limits the ability of these victims' accounts to access justice and accountability.

B. THE NECESSITY OF JUSTICE AND ACCOUNTABILITY FOR VICTIMS AND SURVIVORS

The ICC defines victims as “natural persons who have suffered harm as a result of the commission of any crime within the jurisdiction of the Court. Victims may also include organizations or institutions that have sustained direct harm to any of their property”.⁷² ICC support for victims begins long before the moment that a perpetrator is convicted.⁷³ Once the ICC opens an investigation, it creates pathways for healing, security, and care for victims.⁷⁴ The ICC provides support to ensure victims can participate in the judicial process and reparative measures that reflect victims' needs, as well as interim measures to address past and ongoing risks of harm,

⁷⁰ Physicians for Hum. Rts. & Glob. Hum. Rts. Clinic, Univ. of Chi. L. Sch., “*Destroying Hope for the Future*”: *Reproductive Violence in Gaza*, at 26 (Jan. 14, 2026), <https://phr.org/our-work/resources/destroying-hope-for-the-future-reproductive-violence-in-gaza/>.

⁷¹ *Id.*

⁷² *Victims Rights at the ICC*, Victims and the ICC, <https://icc-victimrights.org/victim-rights> (last visited Sep. 22, 2026).

⁷³ *Id.*

⁷⁴ *Id.*

including care and security.⁷⁵ During this ongoing process, victims can participate in and continue to engage in holding perpetrators accountable.⁷⁶

The concepts of “justice” and “accountability” are not abstract notions to the ICC or the victims and survivors. Based on PHR’s work with thousands of survivors and victims of atrocities around the world, official acknowledgment of the harm, meaningful participation in the justice process, holding perpetrators accountable, establishing reparations, and restoring agency can be significant components of recovery.

For example, researchers have compared beneficiaries of reparations issued by the ICC upon conviction of Germain Katanga, a Congolese former rebel leader, and a matched non-beneficiary group who suffered similar violence in the relevant armed conflict in DRC. Reparations beneficiaries showed significant improvements in self-efficacy and locus of control, higher projected future happiness, and greater trust in judicial, governmental, and international institutions than non-beneficiaries. Of four outcome dimensions measured (livelihoods, psychosocial wellbeing, community cohesion, access to services), psychosocial wellbeing was the only one rated a “strong” effect. The researchers attribute this benefit not just to the reparation payments, but what they call “procedural justice,” meaning the full judicial process, including the trial, ruling, and engagement with the victims’ legal representatives and ICC Trust Fund for Victims staff. They found that reparations gave victims “a space where they felt heard, acknowledged, and considered in a context where the impunity for war crimes often remains.”⁷⁷

⁷⁵ *Id.*

⁷⁶ *Victim Participation*, Victims and the ICC, <https://icc-victimrights.org/participation> (last visited Sep. 22, 2026).

⁷⁷ *Prosecutor v. Katanga*, ICC-01/04-01/07-3934-AnxC, Annex C to the Final Report Pursuant to Regulation 58 of the Regulations of the Trust Fund for Victims: Jean-Benoît Falisse, Simeon Koroma, Georges Bilauri Nyembo & Dieumerici Amuda Baba, *Evaluation of the Effects of the Reparations Ordered by the International Criminal Court and Implemented by the Trust Fund for Victims in the Case of the Prosecutor Against Germain Katanga* (Univ. of

The inverse can also be true. Perpetrator impunity, procedural unfairness, and denial of justice can impede recovery and compound trauma for victims of crimes against humanity. Research has shown that a lack of access to justice negatively impacts the health of individuals and communities affected by atrocity crimes such as those addressed by the ICC. A six-year longitudinal study of hundreds of individuals found that preoccupation with unresolved injustice was associated with four times higher odds of post-traumatic stress disorder and double the odds of severe distress.⁷⁸

When victims have discussed their interactions with the ICC, they have noted how important it was for them to tell their story to the court. In an interview regarding an earlier ICC investigation into crimes in the DRC, one victim stated that “I was afraid in my community, like an animal who gets cornered. Completing the [victim testimony] application gave me a feeling of security. If something happened to me, there was an institution where they knew about me, where someone could ask about me, about what happened to me.”⁷⁹ Another noted that “I was happy to be recognized as [a] victim because before nobody came to talk to us. But during the [victim] application process, people listened to us and we could talk about our difficulties openly and

Edinburgh, external evaluation comm’d by the Trust Fund for Victims) (Dec. 2, 2024) (welcomed by Trial Chamber II in its Decision of Jan. 30, 2025), <https://www.icc-cpi.int/court-record/icc-01/04-01/07-3934>. The ICC Trust Fund for victims was created by the Rome Statute to provide reparations and support for victims and survivors. See, *Trust Fund for Victims*, Trust Fund for Victims, <http://www.trustfundforvictims.org/>.

⁷⁸ Derrick Silove, Belinda Liddell, Susan Rees, Tien Chey, Angela Nickerson, Natalino Tam, Anthony B. Zwi, Robert Brooks, Lazaro Lelan Sila & Zachary Steel, *Effects of Recurrent Violence on Post-Traumatic Stress Disorder and Severe Distress in Conflict-Affected Timor-Leste: A 6-Year Longitudinal Study*, 2 *Lancet Glob. Health* e293 (2014), [https://doi.org/10.1016/S2214-109X\(14\)70196-2](https://doi.org/10.1016/S2214-109X(14)70196-2).

⁷⁹ Stephen Cody, Eric Stover, Mychelle Balthazard & Alexa Koenig, *The Victims’ Court? A Study of 622 Victim Participants at the International Criminal Court* (Univ. of Cal., Berkeley Sch. of L., 2015), <https://ssrn.com/abstract=2982534>.

freely.”⁸⁰ For these victims, being recognized as a victim by the ICC offered a rare opportunity to have their truth heard and acknowledged.

As discussed in this brief, the ICC’s work is critical. It represents one of the few pathways for justice for survivors of some of the worst crimes imaginable. The ICC offers victims of such crimes the chance to directly participate in the judicial process that holds their perpetrators accountable.

Each day that the sanctions regime remains in place is another day that the victims are left waiting to see justice. Public interest must be served by ensuring justice and accountability for serious widescale human rights abuses.

IV. CONCLUSION

Executive Order 14,203 undermines the ICC in a way that causes irreparable harm to victims of international crimes. For this reason, we ask the court to grant a preliminary injunction lifting the civil and criminal penalties in Executive Order 14,203.

Date: September 23, 2026

Respectfully submitted,

s/ Payal K. Shah

Payal K. Shah (4540902)
Physicians for Human Rights
520 8th Avenue Suite 2301
New York, NY 10018
(646) 564-3720
[REDACTED]

⁸⁰ *Id.*

Counsel of Record

Gerson H. Smoger
SMOGER AND ASSOCIATES

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

**Pro hac vice* forthcoming

Kimberly Saltz
Physicians for Human Rights
520 8th Avenue Suite 2301
New York, NY 10018
(646) 564-3720

[REDACTED]

**Pro hac vice* forthcoming

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(c)

I, Payal Shah, counsel for *amicus curiae*, hereby certify that the foregoing brief complies with the word count limitation set forth in Local Rule 7.1(c). This document contains 8,323 words, excluding the caption, table of contents, table of authorities, signature block, and required certificates.

/s/ Payal K. Shah